

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4379

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 12), 1994

Received

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## AN ACT

To amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agriculture exports, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Farm Credit System  
5       Agricultural Export and Risk Management Act”.

1 **SEC. 2. PARTICIPATION DEFINED.**

2 Section 3.1(11)(B) of the Farm Credit Act of 1971  
3 (12 U.S.C. 2122(11)(B)) is amended by adding at the end  
4 the following new clause:

5 “(iv) As used in this subparagraph, the term  
6 ‘participate’ or ‘participation’ refers to multilender  
7 transactions, including syndications, assignments,  
8 loan participations, subparticipations, or other forms  
9 of the purchase, sale, or transfer of interests in  
10 loans, other extensions of credit, or other technical  
11 and financial assistance.”.

12 **SEC. 3. AGRICULTURAL EXPORT FINANCING.**

13 Section 3.7(b) of the Farm Credit Act of 1971 (12  
14 U.S.C. 2128(b)) is amended—

15 (A) in paragraph (1)—

16 (i) by striking “assistance to (A)” and in-  
17 serting “assistance to”;

18 (ii) by striking “the export or” and insert-  
19 ing “the”; and

20 (iii) by striking “and (B)” and all that fol-  
21 lows through “subparagraph (A): *Provided,*  
22 That a” and inserting “if the”; and

23 (B) by striking paragraph (2) and inserting the  
24 following new paragraph:

1       “(2)(A) A bank for cooperatives may make or partici-  
2       pate in loans and commitments to, and extend other tech-  
3       nical and financial assistance to—

4               “(i) any domestic or foreign party for the ex-  
5       port, including (where applicable) the cost of freight,  
6       of agricultural commodities or products thereof,  
7       farm supplies, or aquatic products from the United  
8       States under policies and procedures established by  
9       the bank to ensure that the commodities, products,  
10      or supplies are originally sourced, where reasonably  
11      available, from one or more eligible cooperative asso-  
12      ciations described in section 3.8(a) on a priority  
13      basis, except that if the total amount of the balances  
14      outstanding on loans made by a bank under this  
15      clause that—

16              “(I) are made to finance the export of  
17      commodities, products, or supplies that are not  
18      originally sourced from a cooperative, and

19              “(II) are not guaranteed or insured, in an  
20      amount equal to at least 95 percent of the  
21      amount loaned, by a department, agency, bu-  
22      reau, board, commission, or establishment of  
23      the United States or a corporation wholly-  
24      owned directly or indirectly by the United  
25      States,

1 exceeds an amount that is equal to 50 percent of the  
2 bank's capital, then a sufficient interest in the loans  
3 shall be sold by the bank for cooperatives to com-  
4 mercial banks and other non-System lenders to re-  
5 duce the total amount of such outstanding balances  
6 to an amount not greater than an amount equal to  
7 50 percent of the bank's capital; and

8       “(ii) except as provided in subparagraph (B),  
9 any domestic or foreign party in which an eligible  
10 cooperative association described in section 3.8(a)  
11 (including, for the purpose of facilitating its domes-  
12 tic business operations only, a cooperative or other  
13 entity described in section 3.8(b)(1)(A)) has an own-  
14 ership interest, for the purpose of facilitating the do-  
15 mestic or foreign business operations of the associa-  
16 tion, except that if the ownership interest by an eli-  
17 gible cooperative association, or associations, is less  
18 than 50 percent, the financing shall be limited to the  
19 percentage held in the party by the association or  
20 associations.

21       “(B) A bank for cooperatives shall not use the au-  
22 thority provided in subparagraph (A)(ii) to provide finan-  
23 cial assistance to a party for the purpose of financing the  
24 relocation of a plant or facility from the United States  
25 to another country.”.

1 **SEC. 4. CONFORMING AMENDMENT.**

2 Section 3.8(b)(1) of the Farm Credit Act of 1971 (12  
3 U.S.C. 2129(b)(1)) is amended—

4 (A) by striking subparagraph (B);

5 (B) by redesignating subparagraphs (C), (D),  
6 and (E) as subparagraphs (B), (C), and (D), respec-  
7 tively; and

8 (C) by aligning the margin of subparagraph (D)  
9 (as so redesignated) so as to align with the margin  
10 of subparagraph (C) (as so redesignated).

11 **SEC. 5. LOAN PARTICIPATION AUTHORITY FOR FARM**  
12 **CREDIT BANKS AND DIRECT LENDER ASSO-**  
13 **CIATIONS.**

14 (a) IN GENERAL.—Title IV of the Farm Credit Act  
15 of 1971 (12 U.S.C. 2151 et seq.) is amended by inserting  
16 after section 4.18 (12 U.S.C. 2206) the following new sec-  
17 tion:

18 **“SEC. 4.18A. AUTHORITY OF FARM CREDIT BANKS AND DI-**  
19 **RECT LENDER ASSOCIATIONS TO PARTICI-**  
20 **PATE IN LOANS TO SIMILAR ENTITIES FOR**  
21 **RISK MANAGEMENT PURPOSES.**

22 “(a) DEFINITIONS.—As used in this section:

23 “(1) PARTICIPATE AND PARTICIPATION.—The  
24 terms ‘participate’ and ‘participation’ shall have the  
25 meaning provided in section 3.1(11)(B)(iv).

1           “(2) SIMILAR ENTITY.—The term ‘similar en-  
2           tity’ means a person that—

3                   “(A) is not eligible for a loan from the  
4           Farm Credit Bank or association; and

5                   “(B) has operations that are functionally  
6           similar to a person that is eligible for a loan  
7           from the Farm Credit Bank or association in  
8           that the person derives a majority of the income  
9           of the person from, or has a majority of the as-  
10          sets of the person invested in, the conduct of  
11          activities that are functionally similar to the ac-  
12          tivities that are conducted by an eligible person.

13          “(b) LOAN PARTICIPATION AUTHORITY.—Notwith-  
14       standing any other provision of this Act, any Farm Credit  
15       Bank or direct lender association chartered under this Act  
16       may participate in any loan of a type otherwise authorized  
17       under title I or II made to a similar entity by any person  
18       in the business of extending credit, except that a Farm  
19       Credit Bank or direct lender association may not partici-  
20       pate in a loan under this section if—

21               “(1) the participation would cause the total  
22       amount of all participations by the Farm Credit  
23       Bank or association under this section involving a  
24       single credit risk to exceed 10 percent (or the appli-  
25       cable higher lending limit authorized under regula-

1        tions issued by the Farm Credit Administration if  
2        the stockholders of the respective Farm Credit Bank  
3        or association so approve) of the total capital of the  
4        Farm Credit Bank or association;

5            “(2) the participation by the Farm Credit Bank  
6        or association would equal or exceed 50 percent of  
7        the principal of the loan or, when taken together  
8        with participations in the loan by other Farm Credit  
9        System institutions, would cause the cumulative  
10       amount of the participations by all Farm Credit Sys-  
11       tem institutions in the loan to equal or exceed 50  
12       percent of the principal of the loan;

13           “(3) the participation would cause the cumu-  
14       lative amount of participations that the Farm Credit  
15       Bank or association has outstanding under this sec-  
16       tion to exceed 15 percent of the total assets of the  
17       Farm Credit Bank or association; or

18           “(4) the loan is of the type authorized under  
19       section 1.11(b) or 2.4(a)(2).

20        “(c) PRIOR APPROVAL REQUIRED.—

21           “(1) IN GENERAL.—With respect to a similar  
22       entity that is eligible to borrow from a bank for co-  
23       operatives under title III, the authority of a Farm  
24       Credit Bank or association to participate in a loan  
25       to the entity under this section shall be subject to

1 the prior approval of the bank for cooperatives hav-  
2 ing, at the time the loan is made, the greatest loan  
3 volume in the State in which the headquarters office  
4 of the similar entity is located.

5 “(2) TERMS AND CONDITIONS.—Approval  
6 under paragraph (1) may be granted on an annual  
7 basis and under such terms and conditions as may  
8 be agreed on between the Farm Credit Bank or as-  
9 sociation, as the case may be, and the bank for co-  
10 operatives granting the approval.

11 “(3) APPROVAL BY SUPERVISING FARM CREDIT  
12 BANK.—An association may not participate in a loan  
13 to a similar entity under this section without the ap-  
14 proval of the supervising Farm Credit Bank or the  
15 association.”.

16 **SEC. 6. CONFORMING AMENDMENTS.**

17 Section 3.1(11)(B)(i)(I)(bb) of the Farm Credit Act  
18 of 1971 (12 U.S.C. 2122(11)(B)(i)(I)(bb)) is amended—

19 (A) by striking “the other banks for coopera-  
20 tives under this subparagraph” and inserting “other  
21 Farm Credit System institutions”; and



- 1 (B) by striking “all banks for cooperatives” and  
2 inserting “all Farm Credit System institutions”.

Passed the House of Representatives September 29,  
1994.

Attest: DONNALD K. ANDERSON,  
*Clerk.*